



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the First day of April Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL ORIGINAL PETITION No.6222 of 2022

M.SATHISHKUMAR

[PETITIONER / ACCUSED]

Vs

STATE REP BY
THE INSPECTOR OF POLICE,
H3, TONDIARPET, CHENNAI.
CRIME NO.81/2022.

[RESPONDENT]

For Petitioner : M/S. E.BALAMURUGAN Advocate

For Respondent : MR. A.GOKULAKRISHNAN, Additional Public Prosecutor

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences under Sections 147, 148, 294(b), 153, 341, 355, 323, 324 and 506(ii) of IPC and 4AA(1a), 4AA (4) of Tamil Nadu Open Places (Prevention of Disfigurement Act 1959) altered into 147, 148, 294 (b), 153, 341, 355, 323, 324, 506(ii) and 307 IPC and 4 AA(1a), 4AA (4) Tamil Nadu Open Places (Prevention of Disfigurement Act, 1959), and Section 66E of I.T.Act in Crime No.81 of 2022, seeks anticipatory bail.

2. The case of the prosecution, as evinced from the complaint lodged by the de facto complainant, Naresh Kumar, in brief, is as under:-

The de facto complainant belongs to 'DMK', a political party. In his capacity as such, he was watching the election process on 19.2.2022, at about 4.30 pm, by standing near the polling booth at Ward No.49, Kamaraj Matriculation School at Sanjeeviraya Kovil Street



and by that time, the Former Minister Mr.D.Jayakumar alongwith 40 persons in 20 two wheelers, had come to the polling station with the AIADMK flag hoisted on his car, who had attempted to trespass into the polling booth. When the de facto complainant had questioned them, the Former Minister Mr.Jayakumar had abused him with filthy language and stating as to how dare he was to question a Former Minister, had instigated his associates to assault the de facto complainant. The petitioner, who had accompanied him, had assaulted the de facto complainant with knives, iron rods and wooden logs and attempted to murder him. The de facto complainant, in order to save his life, had attempted to run away from the place. At that time, the Former Minister and his associates have caught hold of him, and assaulted him again and thereafter, removing his shirt, had tied his hands from behind and paraded him in a half naked manner like an accused and due to the assault, the de facto complainant had sustained injuries in the spine, left hand and right ring finger and the legs. The de facto complainant had fallen down unconscious and that his friends had saved him and taken him to the hospital.

3. Based on the complaint, initially, a case was registered for offences punishable under Sections 147, 148, 294(b), 153, 341, 355, 323, 324 and 506(ii) of IPC and 4AA(1a), 4AA (4) of Tamil Nadu Open Places (Prevention of Disfigurement Act 1959) and after obtaining further statement, the case was altered into one for offences punishable under Sections 147, 148, 294 (b), 153, 341, 355, 323, 324, 506(ii) and 307 IPC and 4 AA(1a), 4AA (4) Tamil Nadu Open Places (Prevention of Disfigurement Act, 1959), and Section 66E of I.T.Act in Crime No.81 of 2022 on the file of the respondent police.

4. Learned counsel appearing for the petitioner would submit that the petitioner belongs to AIADMK party and on the date of occurrence, the petitioner and the party cadres had received information about fake/bogus voting by DMK party members and thereupon, they, alongwith the former Minister, had visited the spot and attempted to prevent the fake/bogus voting and during that time, they found the de facto complainant, who is a habitual offender, who has got more than ten criminal cases against him, attempting to poll bogus votes and when it was questioned by the petitioner and others, he had picked up a quarrel with the party cadres. He would further submit that considering the antecedents of the de facto complainant and suspecting that he would have kept weapons concealed, they had removed the shirt of the de facto complainant and caught hold of him and handed him over to the police. He would further submit that at the relevant time, no injury was caused to the de facto complainant by the petitioner and it is evident from the Accident Register, which contains the word "Reserved" in the column "nature of injury". He would also submit that other than handing over the de facto complainant to the police, the petitioner had not involved in any offence and though originally, a case was registered for offence under Sections 147, 148, 294(b), 153, 341, 355, 323, 324 and 506(ii)



of IPC and 4AA(1a), 4AA (4) of Tamil Nadu Open Places (Prevention of Disfigurement Act 1959), without there being any injury on the de facto complainant, the case was altered to one for offences punishable under Sections 147, 148, 294 (b), 153, 341, 355, 323, 324, 506(ii) and 307 IPC and 4 AA(1a), 4AA (4) Tamil Nadu Open Places (Prevention of Disfigurement Act, 1959), and Section 66E of I.T.Act was later included thereby creating doubt on the prosecution case. He would submit that the case was foisted only to drag the former Minister and he had been arrested and later enlarged on bail. He would also submit that custodial interrogation of the petitioner may not be required and thereby seek for anticipatory bail.

5. Mr.A.Gokulakrishnan, learned Additional Public Prosecutor appearing for the respondent would submit that the investigation is pending. He would further submit that it is a case where the petitioner, alongwith his party colleagues, had attempted to trespass into a polling booth and when it was questioned by the de facto complainant, the petitioner, alongwith his party colleagues, had indiscriminately assaulted the de facto complainant with knives, wooden logs and iron rods. He would also submit that the injured victim/de facto complainant had been discharged from the hospital, however, if the petitioner is granted bail, there is every possibility that he may tamper with the investigation and therefore, in the event of granting bail, it may be granted subject to stringent conditions and the petitioner may be directed to give an undertaking that he would not indulge in any such activities in future.

6. Taking into consideration the fact that the incident had occurred on 19.2.2022 and the main accused was arrested on 21.2.2022 and enlarged on bail by order dated 3.3.2022 in CrI.O.P.No.5019 of 2022, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of seven days from the date of receipt of a copy of this order, before the Learned XVth Metropolitan Magistrate, George Town, Chennai, on condition that the petitioner shall execute a bond for a sum of Rs.15,000/-only (Rupees Fifteen Thousand Only), with two sureties each for a like sum to the satisfaction of the respondent police or the police officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a) the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar Card or Bank pass Book to ensure their identity;

(b) the petitioner shall not tamper with evidence or witness either during investigation or trial;



(c) the petitioner shall stay at Periyakulam and report before the Periyakulam Police Station daily at 10.30 a.m., until further orders.

(d) the petitioner shall not abscond either during investigation or trial;

(e) on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions has been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]; and;

(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

7. The Criminal Original Petition is ordered accordingly.

-sd/-

01/04/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)

High Court, Madras - 600 104.

TO

1 THE METROPOLITAN MAGISTRATE,
NO.XV, GEORGE TOWN, CHENNAI .

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI. [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
H3, TONDIARPET,
CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE OFFICER INCHARGE,
PERIYAKULAM POLICE STATION,
PERIYAKULAM.



+1 CC to M/S. E.BALAMURUGAN Advocate on payment of necessary
charges SR.NO. 5038

+1 CC to PUBLIC PROSECUTOR SR.NO. 5109

WEB COPY

CRL OP.6222/2022

Date :01/04/2022

RW 08/04/2022